

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON

IN RE:  
Hitendra D. Patel

Debtor

: CASE NO: 16-33595  
: (Chapter 13)  
: JUDGE: Guy R. Humphrey  
:  
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**CHAPTER 13 TRUSTEE'S MOTION TO DISMISS FOR CAUSE  
PURSUANT TO 11 U.S.C. §1307(c) and NOTICE**

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Now comes the Chapter 13 Trustee and moves the Court for order dismissing the herein case for cause pursuant to 11 U.S.C. §1307(c) as follows:

The Trustee has two (2) basis for filing the motion to dismiss. First, Debtor had a hearing on April 6, 2017 in which the Chapter 13 Trustee and the creditor US Bank, N.A. appeared before the Court. The Debtor failed to appear. Based upon the statements made by counsel for the Trustee and for the creditor, the Debtor's case was denied confirmation. See document number 57. Debtor has failed to file any amended plan. Therefore, there is currently no plan before the Court.

Secondly, the Trustee states the Debtor has failed to make payments as proposed. Debtor's case was filed on November 21, 2016 with the first Meeting of Creditors scheduled for January 3, 2017. As of May 3, 2017, the Debtor has been the plan for five (5) months. Therefore, five (5) months of plan payments should have been made. Debtor's original payment was \$250.00 while the most recent plan provided a payment of \$1,481.00. A, 2017 payment, \$6,174.00 should have been paid. The Debtor has only paid \$1,731.00 therefore, being short \$4,443.00 in his plan payments. Debtor's last payment was February 28, 2017.

Wherefore, the Chapter 13 Trustee moves the Court for an order dismissing the herein case for cause under 11 U.S.C. §1307(c) in that the Debtor has failed to file a plan and has failed to make plan payments.

Respectfully submitted,

/S/ Jeffrey M. Kellner

JEFFREY M. KELLNER 0022205  
CHAPTER 13 TRUSTEE  
131 N. Ludlow St., Suite 900  
Dayton, OH 45402  
(937) 222-7600 Fax: (937) 222-7383  
email: [chapter13@dayton13.com](mailto:chapter13@dayton13.com)

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### **NOTICE OF CHAPTER 13 TRUSTEE'S MOTION TO DISMISS FOR CAUSE**

The Chapter 13 Trustee has filed papers with the Court to obtain relief sought in Trustee's Motion to Dismiss for Cause.

**Your rights may be affected.** You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. If you do not have an attorney, you may wish to consult one.

If you do not want the Court to grant the relief sought in the Motion to Dismiss for Cause, then on or before **twenty-one (21) days from the date set forth in the certificate of service for the Motion to Dismiss for Cause**, you must file with the Court a response explaining your position by mailing your response by ordinary U.S. Mail to U.S. Bankruptcy Court, 120 W. Third St., Dayton, Ohio 45402 OR your attorney must file a response using the Court's ECF System.

The Court must **receive** your response on or before the above date.

You must also send a copy of your response either by 1) the court's ECF system or by 2) ordinary U.S. Mail to:

Hitendra D. Patel, 5069 Village Green Drive, Mason, OH 45040

Pro Se

Jeffrey M. Kellner, Chapter 13 Trustee, 131 N. Ludlow St., Dayton, Ohio 45402

Office of the U.S. Trustee, 170 North High St., Suite 200, Columbus, Oh 43215

If you or your attorney do not takes these steps, the Court may decide that you do not oppose the relief sought in the Trustee's Motion to Dismiss for Cause and may enter an order granting that relief without further hearing or notice.

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### **CERTIFICATE OF SERVICE**

I hereby certify that a copy of the following Trustee's Motion to Dismiss for Cause Pursuant to 11 U.S.C. §1307(c) was served **electronically** on the date of filing through the Court's ECF System on all ECF participants registered in this case at the email address registered with the Court and by **ordinary U.S. Mail** on May 8, 2017 addressed to:

Hitendra D. Patel  
5069 Village Green Drive  
Mason, OH 45040